X-H.C.—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.Rev.167 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Applicant	Suban Ram, S/o Late Gamhar Ram, aged about 45 years, R/o village Banai, Police Station Sitapur, District Surguja (CG).
		-Versus-
	Respondent	State of Chhattisgarh, through Police Station Sitapur, District Surguja (CG).
	(Criminal revision under Section 397/401 of the Cr.P.C.)	
	19-6-2007	

Shri V.C. Ottalwar and Shri Satish Gupta, counsel for the applicant.

Shri Akhil Mishra, Panel Lawyer for the State/respondent.

Heard.

This revision has been preferred against the order dated 19-2-2001 passed by the Sessions Judge, Ambikapur, District Surguja, in Sessions Trial No.312/2000 whereby the charge punishable under Section 376 of the Indian Penal Code has been framed against the accused/applicant.

Brief facts necessary for the disposal of this criminal revision are that the prosecutrix gave a complaint to the Member of Legislative

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr. Rev. 167 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Assembly, who in turn sent the same to the Superintendent of Police for further action. In the said complaint, the prosecutrix said that she is a widow and residing in village Banai. She approached the accused, who was Sarpanch of Gram Panchayat Banai Girhuldih at the relevant time, for inclusion of her name under the Indira Awas Yojana. The accused assured her that her name would be included in the list of Indira Awas Yojana. Thereafter he forced her for sexual intercourse and started coming to her house when her father was not present at residence. He used to come to her house some time in the night and some time in the day, started abusing her sexually and continued to do so for four years. When she objected, he assured her that he would include her name in the list of Indira Awas Yojana and ultimately when the Sarpanch had not included her name in the list of Indira Awas Yojana, she lodged a report in Police Station Sitapur on 27-3-1999, but nothing had happened.

Receiving this report, the Superintendent of Police ordered the Sub Divisional Officer (Police), Ambikapur, to enquire and report. Thereafter the case was registered and ultimately after completion of investigation, charge sheet was filed against the accused.

Learned Sessions Judge after hearing counsel for the parties reached to the conclusion that prima facie offence punishable under Section 376 of the Indian Penal Code was made out, therefore, learned

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr. Rev. 167 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Sessions Judge framed the charge for commission of the said offence on 19-2-2001.

Shri Ottalwar, learned counsel for the accused/applicant, argued that the matter was reported after one year that too to the Member of Legislative Assembly, as such, no case was made out.

I have perused the complaint made by the prosecutrix in which she has categorically stated that on 27-3-1999 she lodged the report in Police Station Sitapur, but nothing was done by the Police. The prosecutrix has categorically stated in her statement that accused asked her that he would include her name in the list of Indira Awas Yojana and started abusing her sexually and he also threatened her that if she will disclose this thing to anyone then he would not help her in getting loan under Indira Awas Yojana. The younger sister of the prosecutrix namely Sonmati in her statement under Section 161 of the Code of Criminal Procedure has supported the above fact.

In view of the above, I am of the considered opinion that prima facie offence under Section 376 of the Indian Penal Code was made out against the accused/applicant. As far as delay and other aspects are concerned, that can be examined by the trial Court at the time of proceedings i.e. statement of prosecutrix, cross-examination by counsel for the defence etc. At this stage, the Court is required to look into the

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.Rev. 167 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	material available on record, as prima facie offence is made out, then the Court is required to frame the charge. The material available on record satisfied the above test. Therefore, I am of the considered opinion that the trial Court has not committed any illegality in framing the charge for commission of offence punishable under Section 376 of the I.P.C. The revision being devoid of merit, is liable to be dismissed and it is hereby dismissed. Consequently, stay granted by this Court vide order dated 20-4-2001 stands vacated. Record of the trial Court be sent back to the Sessions Judge for expeditious trial. Sd/- L.C. BHADOO Judge	
Gowr		